

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

DAISY LYNNE MEADOWS,

Plaintiff,

v.

NETHANJAH CHILDERS, *et al.*,

Defendants.

Case No. 3:22-CV-00383-MMD-CLB

**ORDER GRANTING MOTION FOR  
APPOINTMENT OF COUNSEL AND  
DENYING WITH LEAVE TO REFILE  
MOTION TO COMPEL**

[ECF Nos. 55, 56]

Currently pending before the Court is Plaintiff Daisy Lynne Meadows's ("Meadows") motion for appointment of counsel. (ECF No. 55.) Defendants did not oppose the motion. Having considered Meadows's motion and the docket in this case, the Court finds that exceptional circumstances exist that support the appointment of counsel and therefore grants Meadows's motion.

There is no constitutional right to appointed counsel in a § 1983 action. *E.g., Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *opinion reinstated in pertinent part*, 154 F.3d 952, 954 n.1 (9th Cir. 1998) (en banc). The provision in 28 U.S.C. §1915(e)(1) gives the court discretion to "request an attorney to represent any person unable to afford counsel." 28 U.S.C. § 1915(e)(1); *see, e.g., Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1998) (en banc.) While the decision to request counsel lies within the discretion of the district court, the court may exercise this discretion to request counsel only under "exceptional circumstances." *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991).

A finding of "exceptional circumstances" requires the court to evaluate (1) the plaintiff's likelihood of success on the merits and (2) the Plaintiff's ability to articulate his claims *pro se* considering the complexity of the legal issues involved. *Id.* (quoting *Wilborn*, 789 F.2d at 1331) (internal quotation marks omitted). Neither factor is dispositive, and both factors must be considered before a court decides. *Id.* The difficulties every litigant faces when proceeding *pro se* does not qualify as an exceptional circumstance. *Wood v.*

1 *Housewright*, 900 F. 2d 1332, 1335-36 (9th Cir. 1990). While almost any *pro se* litigant  
2 would benefit from the assistance of competent counsel, such a benefit does not rise to  
3 the level of “exceptional circumstances.” *Rand*, 113 F.3d at 1525. Rather, the plaintiff  
4 must demonstrate that he is unable to articulate his claims due to their complexity. *Id.*

5 Having considered Meadows’s motion and the docket in this case, the Court finds  
6 that exceptional circumstances warrant appointment of counsel. *Terrell*, 935 F.2d at 1017.  
7 While the Court is uncertain about Meadows’s likelihood of success on the merits at this  
8 juncture, the Court does not believe Meadows can appropriately articulate the several  
9 claims that are proceeding in this action, including her claims for Fourteenth Amendment  
10 due process right to marriage, First Amendment retaliation, Eighth Amendment failure to  
11 protect, and Fourteenth Amendment equal protection violations. (See ECF No. 14.)  
12 Taking all these facts and circumstances into account, the Court finds that Meadows has  
13 shown that exceptional circumstances exist here.

14 The Court therefore grants Meadows’s motion for appointment of counsel, (ECF  
15 No. 55), and stays this case in its entirety until pro bono counsel is identified and formally  
16 appointed. In addition, this case is referred to the Pro Bono Program adopted in the  
17 Amended General Order 2019-07 for the purpose of identifying counsel willing to be  
18 appointed as pro bono counsel for Meadows. By referring this case to the Program, the  
19 Court is not expressing an opinion on the merits of the case.

20 Finally, in light of the stay and appointment of counsel, the Court denies with leave  
21 to refile Meadows’s motion to compel, (ECF No. 56). No further documents shall be filed  
22 until pro bono counsel has been identified and appointed in this action.

23 Accordingly, **IT IS HEREBY ORDERED** that Meadows’s motion for appointment  
24 of counsel, (ECF No. 55), is **GRANTED**.

25 **IT IS FURTHER ORDERED** that this case is referred to the Pro Bono Program for  
26 appointment of counsel for the purposes identified herein.

27 **IT IS FURTHER ORDERED** that the Clerk shall also forward this order to the Pro  
28 Bono Liaison.

1           **IT IS FURTHER ORDERED** that this case is stayed in its entirety until pro bono  
2 counsel is identified and formally appointed in this case.

3           **IT IS FURTHER ORDERED** that Meadows's motion to compel, (ECF No. 56), is  
4 **DENIED with leave to refile.**

5           **IT IS FURTHER ORDERED** that no further documents shall be filed in this action  
6 until pro bono counsel has been identified and appointed.

7           **IT IS SO ORDERED.**

8 **DATED:** December 5, 2023

9   
10 **UNITED STATES MAGISTRATE JUDGE**